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**BOARD OF LICENSE COMMISSIONERS
FOR ANNE ARUNDEL COUNTY**

April 24, 2019

Open Meetings Compliance Board
Attn: Janice Clark
Administrative Officer
Via Email: opengov@oag.state.md.us

Re: Complainant, Michael & Kathryn Mangum ("Mangums")
Filed March 21, 2019

Dear Members of the Open Meetings Act Compliance Board

In my capacity as counsel to the Board, and at the request of the Chairman of the Board, I respond to the Reply, emailed to the Board by Mangums, after Board's Response to the Compliant filed by Mangums.

Respectfully submitted,
Harry C. Blumenthal
Counsel to the Board of License /Commoners of Anne Arundel County, Maryland
hblumenthal@bdppplaw.com
410-573-2904

Cc. Email
familymangum@gmail.com

**BOARD OF LICENSE COMMISSIONERS FOR ANNE ARUNDEL
COUNTY SECOND RESPONSE TO COMPLAINT FILED WITH THE
OPEN MEETINGS ACT COMPLIANCE BOARD**

SUMMARY OF COMPLAINT AND FIRST RESPONSE

This Second Response of the Board of License Commissioners from Anne Arundel County (hereinafter referred to as "Board"), responds to the reply letter (hereinafter referred to as "Reply"), which was sent to the Open Meetings Act Compliance Board (hereinafter referred to as "Compliance Board"), by Michael and Kathryn Mangum (hereinafter referred to as "Mangums").

Mangums filed a Complaint pursuant to the Open Meetings Act (hereinafter referred to as "Act"), alleging that the Board met with Board counsel in closed session, in violation of the Act.

The Board responded (hereinafter referred to as First Response), and articulated that:

- (A) the subject of the Board meeting was establishing procedure by which to hear and thereafter decide the merits of a liquor license application (hereinafter referred to as "Application"), remanded to the Board by the Courts for a hearing, and
- (B) such meeting is exempted from the Act because the Board, by definition in the Act, is a quasi-judicial body, and not subject to the Act unless it is deciding the merits of the Application, as contrasted with merely deciding the proper procedure by which to hear the merits of the Application, and
- (C) Furthermore, the Act authorizes closed meetings by the Board for the purpose of meeting with Board counsel for legal advice, e.g.
 - (1) procedural uncertainty caused by Code citation errors in both the Mandate of the Maryland Court of Special Appeals and Order of the Circuit Court for Anne Arundel County, Maryland, and
 - (2) inquiry by two Board Members (a quorum of the Board) as to their ability to participate in the remanded hearing, because they were not Board Members when the case for the Application was heard, and
 - (3) the Board needed to determine whether the merits of the case should be argued *de novo* (from the beginning, as if the initial case never had been heard by the Board), or whether the merits of the case should be argued as if on appeal (accept no new evidence, and merely have the Board Members review the more than 700 pages of transcripts and several dozen Exhibits), and have the Board then render a new opinion on the merits of the case, taking into account the reason why the Maryland Court of Special Appeals remanded the case to the Board.
- (D) Such determination was undertaken only after the Board sought with and received voluminous differing advisory opinions from Mangums' counsel and Protestant's counsel.

- (C) Such differing opinions clearly demonstrated the procedural uncertainty resulting from the Courts' Mandate and Order. The Board did not enter its appearance nor file a Brief as a party to the Court of Special Appeals, and therefore could not seek clarification. Mangums, a party to the Court proceedings, chose to not seek clarification.**
- (D) In any event, the Board decided upon a hybrid procedural approach, by not allowing any new testimony or exhibits prior to the date of the last Board hearing, but allowing new testimony and exhibits for the time period between the last Board hearing and the scheduled date of the remanded hearing.**
- (E) The above recitals are more fully set forth in the Board's First Response, replete with Code citations and Exhibits demonstrating the participation of Mangums' counsel.**

MANGUMS REPLY

MANGUMS's Reply attempts, among other things, to mischaracterize and misstate demonstrable facts and applicable law, using inferences, innuendos and inappropriate language. At best, Mangums demonstrate ignorance of applicable statutory provisions, or at worse, Mangums demonstrate that they simply don't care about the facts and the law. The Board declines to dignify such antics with unnecessary arguments already fully set forth in the Board's First Response.

Ordinarily, the Board would not be inclined to file a Second Response, when the applicable provisions of the Act are dispositive of the subject matter of the Complaint.

However, Mangums' Complaint, secretly sent by blind copy email to 16 elected or appointed State officials, and Mangums' Reply includes an inappropriate and unwarranted personal attack against the Board Members and Board Counsel, which Mangums now have augmented with another non-disclosed and even more inappropriate and unwarranted personal attack against Board Members and Board Counsel, accusing them of criminal activity, while at the same time specifically demeaning the Governor of the State of Maryland and his administration. *See* Par. 6 hereinafter and Exhibit A attached hereto.

Exhibit A was sent by Mangums to not only the 16 State officials, but also to all County Council Members and the County Executive.

Mangums apparently want to influence and interfere with administrative and judicial functions, by issuing untrue, derogatory and libelous written statements, focused on the Board and Board counsel, instead of focusing on the merits of the subject matter being considered. Such statements were sent to elected State officials, and thereafter County officials, having no jurisdiction over the subject matter of the Complaint before the Complaint Board, or the Application before the Board.

Mangums behavior, has placed the Board and Board counsel in the unenviable position of having to respond to Mangums egregious actions, so as to draw attention to the constitutional doctrine of separation of powers, and

uphold the rule of law.

MANGUMS EGREGIOUS ACTIVITIES - PART ONE

1. Mangums initially sent undisclosed copies of its Compliance Board Complaint to some, but not all of the Anne Arundel County Senators and Delegates, knowing that only the Open Meetings Act Compliance Board decides such Complaints as an independent State Agency.

2. Mangums have retained competent legal counsel to represent them with regard to their Application before the Board, and they obviously know that the Board has original jurisdiction over Applications for alcoholic beverage licenses, subject to judicial review.

3. Mangums know or legally are assumed to know that the Compliance Board has original jurisdiction over Compliance Board Complaints. The only matter that can be decided by the Compliance Board is whether there has or has not been compliance with the Act when the Board met with counsel for legal advice. The merits of the pending Application cannot be adjudicated by the Compliance Board. The Governor's appointment of Board Members cannot be contested and thereafter adjudicated by the Compliance Board. The qualifications of the Board Members cannot be adjudicated by the Compliance Board. The qualifications of Board counsel cannot be adjudicated by the Compliance Board. Complainant, represented by competent counsel before the Board, also knows that the jurisdiction of the Compliance Board in this matter is limited to whether the Board meeting was compliant with the Act.

4. Notwithstanding Mangums knowledge of the foregoing facts, Mangums begin their Reply by inclusion of an inappropriate personal attack against Board Members and Board counsel:

(A) in the prefatory paragraph of its Reply, Mangums state that Board Counsel "[s]eems to feel he sits on Mount Olympus and doesn't have to answer to anybody". Mangums appear to have a fixation with Mount Olympus, as Mangums again mention it in Par. 4 of their Complaint: "Once again, Mr. Blumenthal and this Board sit on Mount Olympus". This remark, assumed to be derogatory, and irrespective of its meaning, is inappropriate and has no relevance as to whether the Board meeting with counsel for legal advice was or was not compliant with the Act.

(B) Mangums state in Par. 3 of its Reply that: "Mr. Blumenthal and this Board were offended that we notified and blind-copied our elected officials who make the laws." (emphasis added). As a matter of fact, the Board and Board counsel were not just "offended", but found incredulous that Mangums would secretly communicate with select (some but not all) Anne Arundel County State Senators and Delegates to complain about the merits of an action over which elected officials of the State Legislature have no jurisdiction. This action by Mangums is made even more perplexing, considering that Mangums have issued statements that they will prevail with all matters not yet decided. Parties that are successful in litigated matters generally do not complain about

winning.

MANGUMS EGREGIOUS ACTIVITIES - PART TWO

1. The foregoing inappropriate comments of Mangums, in and of themselves, did not suffice to prompt the Board to file this Second Response. However, those inappropriate comments filed with the Compliance Board and simultaneously secretly sent to State Senators and Delegates, now appear to have been only the first part of a two-part plan by Mangums, and just a precursor to the second part, a written communication sent by Mangums, without notice to the Compliance Board or Board, to the same State Senators and Delegates, but now with the additional disbursement to all Anne Arundel County Council Members and the Anne Arundel County Executive. Clearly, the County Council and County Executive have no jurisdiction over the Board, as the Board Members are appointed by the Governor, the Board's budget is subject to the approval and control of the State Comptroller's Office, and the Board Members and employees are subject to the State Ethics Act. The only nexus between the Board and the County government is that the Board consistently provides hundreds of thousands of dollars to the County general fund, on an annual basis.

2. The second part of Mangums two-part plan, occurred on April 2, 2019, when Mangum sent an email to the above-mentioned elected State and County officials (Exhibit A attached hereto). Rather than use a plethora of appropriate pejorative adjectives to describe the contents of the email, I quote below some (but not all) of the egregious statements and allegations, and let them speak for themselves, all statements (A. through H. below) being direct quotes:

- A. Governor Hogan and his administration should be very proud of all of the corruption and fraud that surrounds each and every one of our politicians here in the state of Maryland, and especially in the cesspool of Anne Arundel county.
- B. The Board and their attorney is (sic) incapable of responding in compliance with the law.
- C. This Board has stolen for their (sic) and their friends and colleagues personal benefit and financial gains.
- D. Each and every politician has dirt on their hands for allowing this to continue, because all of you have been made aware of this corrupt atmosphere that surrounds this Board and all of these Boards in the State of Maryland & the alcohol industries.
- E. Mr. Cavey, our current appointment secretary; I do not know how he and his staff can look at themselves in the mirror, with all that has been given to them regarding this Board.
- F. Mr. Warner, the current Board chairman was reappointed in 2017 by Governor Hogan, even though all seven Anne Arundel County councilmen unanimously prepared a resolution with the support of the then County

Executive, to remove this Board because of corruption and fraud.¹

G. County Councilman Grasso, chairman of the council at the time, was so upset by the re-appointment of Mr. Warner [now Chair of the board] that he evicted the Board from the County chambers.

H. The interesting thing is that every Council Chairman after him has not allowed the Board back into the chambers.²

In summary, Mangums believe they somehow has been wronged in the two proceedings initiated by themselves, i.e. the Application before the Board and the Complaint before the Compliance Board, neither of which proceedings have been finally adjudicated.

Mangums are entitled to their opinions but are not entitled to express them in a pejorative and libelous manner to public officials having no jurisdiction to determine the merits or lack thereof.

Mangums' actions and words, at best are wrong and ill-conceived, and at worst constitute libelous statements demonstrating a lack of appreciation for the separation of powers between branches of government, and the independence of regulatory boards charged with deciding matters on merits,

¹ The County Council and the then County Executive wanted the Board to become an agency under budgetary control of the County, instead of the State. Most Council Members, with one notable exception, and the County Executive, did not use such words as corruption and fraud. Chairman Grasso, a friend of the Complainant, refused to allow the Board to conduct its hearings in the Council Chambers, unless the Board reversed its denial of the Application. The County Executive endeavored to find other accommodations for Board hearings in the Arundel Center, but same never materialized due to evening hearings already scheduled for other County agencies.

² Both Councilman Grasso and Peroutka, denied the Board of the use of the Council Chambers unless the Board agreed to grant a Liquor License to the Mangnums, and this arbitrary and outrageous decision cost the County taxpayers thousands of dollars. Through the efforts of Councilman Pruski, the current Council Chair, the Board has been able to return to the Council Chambers, better serve those attending the hearings, and enabling thousands of dollars to once again be paid to the County instead of to a hotel for a hearing room.

Respectfully submitted,

Board of License Commissioners for Anne Arundel County, Maryland

By: Harry C. Blumenthal

Counsel to the Board of License Commissioners for
Anne Arundel County Maryland

hblumenthal@liffwalsh.com

410-573-2904



EXHIBIT A

Board of License Commissioners for Anne Arundel County

1 message

Michael Mangum <familymangum@gmail.com>

Tue, Apr 2, 2019 at 8:48 PM

To: Kyle McColgan -GOV- <kyle.mccolgan@maryland.gov>, Chris Cavey -GOV- <Chris.Cavey@maryland.gov>, Nic Kipke <nic.kipke@gmail.com>, Ed Reilly <Encreilly@gmail.com>, Bryan Simonaire <bryan@simonaire.com>, steve.hershey@senate.state.md.us, jb.jennings@senate.state.md.us, "Hutzell, Richard" <rhutzell@capgaznews.com>, sarah.elfreth@senate.state.md.us, "Busch, Michael Delegate" <michael.busch@house.state.md.us>, thomas.v.mike.miller@senate.state.md.us, pfranchot@comp.state.md.us, slacey@aacounty.org, allison.pickard@aacounty.org, nathan.volke@aacounty.org, andrew.pruski@aacounty.org, amanda.fiedler@aacounty.org, lisa.rodvien@aacounty.org, jessica.haire@aacounty.org, steuart.pittman@aacounty.org

Kyle,

Governor Hogan and his administration should be very proud of all the corruption and fraud that surrounds each and every one of our politicians here in the state of Maryland, and especially in this cesspool of Anne Arundel county. Our highest court has spoken and this Board and loophole Harry Blumenthal, the Boards attorney, has failed to comply. You people have destroyed a business that has been in business for almost 100 years and 27 lives have been impacted because of this Board and their actions. This Boards action is nothing more than retaliation. They have violated so many laws, including the Open Meeting Act. This Board and their attorney is incapable of responding in compliance with the law.

This Board has stolen, for their and their friends and colleagues personal benefit and financial gains. Thirty businesses in the last two decades have been impacted and stolen, by the Good Ole Boys here in Anne Arundel county. Each and every politician has dirt on their hands for allowing this to continue, because all of you have been made aware of this corrupt atmosphere that surrounds this Board and all of these Boards in the State of Maryland & the alcohol industry.

Mr. Cavey, our current appointment secretary; I do not know how he and his staff can look at themselves in the mirror, with all that has been given to them regarding this Board. Mr. Warner, the current Board Chairman was reappointed in 2017 by Governor Hogan, even though all seven Anne Arundel County councilmen unanimously prepared a resolution with the support of the then County Executive, to remove this Board because of the corruption and fraud. Each and every one of the councilmen had problems with this Board, which inflamed the whole County Council. So much so, that County Councilman John Grasso called Mr. Cavey and the Administration to express his displeasure over the reappointment of Mr. Warner. Cavey's response was that Warner has served for 20 years with no complaints. Well, until me.

No other person has taken them all the way up to our highest court, presumably because they didn't have the resources to do so. It is well known in the industry that

this Board and Mr. Warner manage by intimidation and they will put you out of business if you cross them. County Councilman Grasso, chairman of the council at the time, was so upset by the re-appointment of Mr Warner that he evicted the Board from County chambers, stating he was not going to allow corruption and fraud in the peoples house, as long as he was in office. The interesting thing is that every Council Chairman after him has not allowed the Board back into chambers.

Governor Hogan, just before this last election, personally apologized to me and my wife, for what we have gone through with this Board, and asked if his staff was aware. I said his staff was aware, absolutely. He claimed he was unaware, which I find hard to believe. Before he was Governor, I talked to him in great length on this matter.

When he became Governor-elect, he sent me a personal letter. See the attached file. So, once again, I don't see how the Governor looks in the mirror, with all the corruption and fraud here in Maryland. It seems that he just wants to ignore it...just like Baltimore, until it smacks him in the face. But I guess thats just politics.

I guess the only place i will find justice in this state is when we get into Federal Court. Have no doubt, until I drop dead, I will take this up until I have a final resolution.

Also, I've attached a photo of the original Depot, one of the oldest liquor licenses in the state of Maryland. We will see if the appointment secretary or the governor will put this picture on their social media page, that MARYLAND IS OPEN FOR BUSINESS, and brag about the great success here in Maryland, which we all know is not true.

Michael & Kathryn Mangum
240-393-2380

